

2009 DRAFTING REQUEST**Bill**Received: **01/16/2009**Received By: **chanaman**Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**By/Representing: **Jablonsky**This file may be shown to any legislator: **NO**Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Mental Health - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Jablonsky, BB0438 -

Topic:

Mental health institutes funding

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 01/16/2009	wjackson 01/16/2009					S&L
/P1	chanaman 01/21/2009	wjackson 01/25/2009	jfrantze 01/19/2009		sbasford 01/20/2009		S&L
/P2			mduchek 01/25/2009		chanaman 01/25/2009		

FE Sent For:

<END>

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/P1		1/2 wlj 1/25	jfrantze 01/19/2009	_____	sbasford 01/20/2009		

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/?	chanaman	/pl wlj 1/15	Jablonsky	1 + 9			

FE Sent For:

<END>

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Mental Health Institutes Funding
- Tracking Code: BB0438
- SBO team: Health and Insurance
- SBO analyst: Sue Jablonsky
 - Phone: 7-9546
 - Email: sue.jablonsky@wisconsin.gov
- Agency acronym: DHS
- Agency number: 435
- Priority (Low, Medium, High): High

Intent: Currently, the state pays the nonfederal share for civil commitments between age 21 and 65. This proposal would make the county of commitment responsible for the nonfederal share. See attached.

**CHILDREN AND GERIATRICS IN MENTAL HEALTH INSTITUTES
COUNTIES TO PAY NONFEDERAL SHARE OF MEDICAID
PROPOSED STATUTORY REVISIONS**

Section 49.45 (30r) of the Statutes is created to read:

49.45 (30r) A county shall provide the portion of the payment for services under s. 49.46 (2) (b) 6. e. in a mental health institute under s. 51.05 that is not provided by the federal government.

Section 49.46 (2) (b) 6. e. of the Statutes is amended to read:

49.46 (2) (b) 6. e. ~~Inpatient~~ Subject to the limitation under s. 49.45(30r), inpatient hospital, skilled nursing facility and intermediate care facility services for patients of any institution for mental diseases who are under 21 years of age, are under 22 years of age and who were receiving these services immediately prior to reaching age 21, or are 65 years of age or older.

Section 51.15 (2) (c) of the Statutes is amended to read:

51.15 (2) (c) A state treatment facility, if the county department of community programs in the individual's county of residence approves of the individual's detention in the state treatment facility; or

51.42(3)(as)2m. is amended to read:

51.42(3)(as)2m. The department of health services may bill the county department of community programs under subd. 2. for inpatient services provided on or after October 1, 1987, by a mental health institute for individuals under 21 years of age or for individuals under 22 years of age who are receiving the services immediately prior to reaching age 21, ~~only if the person lacks full means of payment, including payment from medical assistance and other sources~~ other than medical assistance.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-15717

CMH:.....

WLj

DOA:.....Jablonsky, BB0438 - Mental health institutes funding
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

Under current law, if a person between the age^s of 21 and 65 is civilly committed in a state mental health institute, DHS pays the portion that is not paid by the federal government of the costs of the services provided by the state mental health institute. Under this bill, the county must pay the portion that is not paid by the federal government of the costs.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 49.45 (30r) of the statutes is created to read:

3 49.45 (30r) SERVICES IN A MENTAL HEALTH INSTITUTE. A county shall provide the
4 portion of payment that is not provided by the federal government for services under
5 s. 49.46 (2) (b) 6. e. in a mental health institute under s. 51.05.

SECTION 2. 49.46 (2) (b) 6. e. of the statutes is amended to read:

49.46 (2) (b) 6. e. Inpatient Subject to the limitation under s. 49.45 (30r),
inpatient hospital, skilled nursing facility and intermediate care facility services for
patients of any institution for mental diseases who are under 21 years of age, are
under 22 years of age and who were receiving these services immediately prior to
reaching age 21, or are 65 years of age or older.

History: 1971 c. 125, 211, 215; 1973 c. 90, 147; 1975 c. 39; 1977 c. 29 ss. 592m, 1656 (18); 1977 c. 389, 418; 1979 c. 34, 221; 1981 c. 20, 93, 317; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 245 ss. 10, 15; 1983 a. 538; 1985 a. 29, 120, 176, 253; 1987 a. 27, 307, 339, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1454d to 1460 and 2909g, 2909i; 1989 a. 122, 173, 333, 336, 351; 1991 a. 39, 178, 269, 316; 1993 a. 16, 99, 269, 277, 446, 450, 491; 1995 a. 27, 77, 164, 289, 303, 457; 1997 a. 27, 35, 105, 237; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 253; 2007 a. 20, 91.

SECTION 3. 51.15 (2) (c) of the statutes is amended to read:

51.15 (2) (c) A state treatment facility, if the county department of community programs in the individual's county of residence approves the individual's detention in the state treatment facility; or

History: 1975 c. 430; 1977 c. 29, 428; 1979 c. 175, 300, 336, 355; 1985 a. 176; 1987 a. 366, 394; 1989 a. 56 s. 259; 1993 a. 451; 1995 a. 77, 175, 292; 1997 a. 35, 283; 2001 a. 16 ss. 1966d to 1966h, 4034zb to 4034zd, 4041d to 4041g; 2001 a. 109; 2005 a. 264; 2007 a. 20.

SECTION 4. 51.42 (3) (as) 2m. of the statutes is amended to read:

51.42 (3) (as) 2m. The department of health services may bill the county department of community programs under subd. 2. for inpatient services provided on or after October 1, 1987, by a mental health institute for individuals under 21 years of age or for individuals under 22 years of age who are receiving the services immediately prior to reaching age 21, only if the person lacks full means of payment, ~~including payment from sources other than medical assistance and other sources.~~

History: 1971 c. 125; 1973 c. 90, 198, 333, 336; 1975 c. 39, 198, 199, 224, 422; 1975 c. 428 s. 16; 1975 c. 430 ss. 24 to 31, 80; 1977 c. 26 ss. 37, 38, 75; 1977 c. 29 ss. 612 to 623p, 1656 (18); 1977 c. 193; 1977 c. 203 s. 106; 1977 c. 272; 1977 c. 354 s. 101; 1977 c. 418, 428, 447; 1979 c. 34, 117, 177, 221, 330, 355; 1981 c. 20 ss. 923 to 942, 2202 (20) (d), (n), (q); 1981 c. 93 ss. 105 to 122, 186; 1981 c. 329; 1983 a. 27, ss. 1106 to 1112, 2202 (20); 1983 a. 189 ss. 44, 329 (5); 1983 a. 192, 239, 365, 375, 524; 1985 a. 29, 120, 176; 1987 a. 3, 27, 199, 339, 366; 1989 a. 31, 122; 1991 a. 39, 274, 315; 1993 a. 16, 437, 445; 1995 a. 27 ss. 3260 to 3262, 9126 (19), 9145 (1); 1995 a. 64, 77, 92, 201, 224, 276, 352, 417; 1997 a. 27, 164, 237, 268; 1999 a. 9; 2001 a. 10, 16, 38; 2003 a. 320; 2005 a. 264, 388, 431, 434; 2007 a. 20 ss. 1819m to 1821, 9121 (6) (a); 2007 a. 45, 97

(END)

Hanaman, Cathlene

From: Jablonsky, Sue - DOA [sue.jablonsky@wisconsin.gov]
Sent: Wednesday, January 21, 2009 1:45 PM
To: Hanaman, Cathlene
Subject: FW: LRB Draft: 09-1571/P1 Mental health institutes funding
Attachments: 09-1571P1.pdf; 09-1571 1-21 revisions.doc

Change to 1571

From: Emslie, William P - DHS
Sent: Wednesday, January 21, 2009 10:25 AM
To: Jablonsky, Sue - DOA
Cc: Moore, Donna J - DHS
Subject: RE: LRB Draft: 09-1571/P1 Mental health institutes funding

Sue,
The Department has revised draft 09-1571P1. There are two revisions (see below). This draft, with the addition of the revisions below, will include all changes necessary to implement charging counties for children and geriatrics at MHLs. I think changes in 09-1140, the other draft you sent yesterday, can be disregarded as the attached language with the revisions below will capture the Department's intent. Sorry for any confusion, I believe these two drafts exist because of the evolution of the proposal from kids only to kids and geriatrics. Let me know if you want to discuss. Thanks Sue.

Also, I have also attached the revisions in a Word document.
-Will

09-1571P1 Revisions:**1- The first revision is to the LRB analysis preceding the statutory changes:*****Analysis by the Legislative Reference Bureau*****HEALTH AND HUMAN SERVICES****MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES**

Under current law, if a person under between the ages of 22 21 or and over the age of 64 65 is civilly committed in a state mental health institute, DHS pays the portion not paid by the federal government of the costs of the services the state mental health institute provides. Under this bill, the county must pay the portion not paid by the federal government. For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

****Note: Currently, if a person between the ages of 21 and 65 is civilly committed in a state mental health institute, the county pays full cost of services. Federal law prohibits Medicaid reimbursement for individuals age 22 to 64 in an institute for mental disease.*

2- The second revision would replace section 4 of the draft:

51.42(3)(as) is amended to read:

01/21/2009

1. In this subdivision, "county department" means county department of community programs.

~~1g.~~ 1g. A county department ~~of community programs~~ shall authorize all care of any patient in a state, local, or private facility under a contractual agreement between the county department ~~of community programs~~ and the facility, unless the county department ~~of community programs~~ governs the facility. The need for inpatient care shall be determined by the program director or designee in consultation with and upon the recommendation of a licensed physician trained in psychiatry and employed by the county department ~~of community programs~~ or its contract agency. In cases of emergency, a facility under contract with any county department ~~of community programs~~ shall charge the county department ~~of community programs~~ having jurisdiction in the county where the patient is found. The county department ~~of community programs~~ shall reimburse the facility for the actual cost of all authorized care and services less applicable collections under s. 46.036, unless the department of health services determines that a charge is administratively infeasible, or unless the department of health services, after individual review, determines that the charge is not attributable to the cost of basic care and services. Except as provided in subd. 1m., a county department ~~of community programs~~ may not reimburse any state institution or receive credit for collections for care received in a state institution by nonresidents of this state, interstate compact clients, transfers under s. 51.35 (3), transfers from Wisconsin state prisons under s. 51.37 (5) (a), commitments under s. 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. 971.14, 971.17 or 975.06 or admissions under s. 975.17, 1977 stats., or children placed in the guardianship of the department of children and families under s. 48.427 or 48.43 or under the supervision of the department of corrections under s. 938.183 or 938.355. The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs that are attributable to care and treatment of the client.

1m. A county department ~~of community programs~~ shall reimburse a mental health institute at the institute's daily rate for custody of any person who is ordered by a court located in that county to be examined at the mental health institute under s. 971.14 (2) for all days that the person remains in custody at the mental health institute, beginning 48 hours, not including Saturdays, Sundays, and legal holidays, after the sheriff and county department receive notice under s. 971.14 (2) (d) that the examination has been completed.

2. If a mental health institute has provided a county department of community programs with service, the department of health services shall regularly collect for cost of care from ~~bill~~ the county department ~~of community programs, except as provided under subd. 2m.~~ If collections for care from the county department and other sources exceed current billings, the difference shall be remitted to the county department ~~of community programs~~ through the appropriation under s. 20.435 (2) (gk). For care provided on and after February 1, 1979, the department of health services shall adjust collections from medical assistance to compensate for differences between specific rate scales for care charged to the county department ~~of community programs~~ and the average daily medical assistance reimbursement rate. ~~Payment shall be due from the county department of community programs within 60 days of the billing date subject to provisions of the contract. If any payment has not been received within 60 days,~~ The department of health services shall deduct all or part of the amount due from a county department under this subdivision from any payment due from the department of health services to the county department ~~of community programs~~.

~~2m. The department of health services may bill the county department of community programs under subd. 2. for inpatient services provided on or after October 1, 1987, by a mental health institute for individuals under 21 years of age or for individuals under 22 years of age who are receiving the services immediately prior to reaching age 21, only if the person lacks full means of payment, including payment from medical assistance and other sources.~~

3. Care, services and supplies provided after December 31, 1973, to any person who, on December 31,

1973, was in or under the supervision of a mental health institute, or was receiving mental health services in a facility authorized by s. 51.08 or 51.09, but was not admitted to a mental health institute by the department of health services, shall be charged to the county department ~~of community programs~~ which was responsible for such care and services at the place where the patient resided when admitted to the institution. The department of health services may bill county departments ~~of community programs~~ for care provided at the mental health institutes at rates which the department of health services sets on a flexible basis, except that this flexible rate structure shall cover the cost of operations of the mental health institutes.

From: Jablonsky, Sue - DOA

Sent: Tuesday, January 20, 2009 8:47 AM

To: Emslie, William P - DHS

Subject: FW: LRB Draft: 09-1571/P1 Mental health institutes funding

From: Frantzen, Jean [mailto:Jean.Frantzen@legis.wisconsin.gov]

Sent: Monday, January 19, 2009 5:48 PM

To: Jablonsky, Sue - DOA

Cc: Gauger, Michelle C - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA

Subject: LRB Draft: 09-1571/P1 Mental health institutes funding

Following is the PDF version of draft 09-1571/P1.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1571/PI

CMH:wlj:jf

Stays

DOA:.....Jablonsky, BB0438 - Mental health institutes funding

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

Under current law, if a person between the ages of ~~21~~ and ~~65~~ is civilly committed in a state mental health institute, DHS pays the portion not paid by the federal government of the costs of the services the state mental health institute provides. Under this bill, the county must pay the portion not paid by the federal government.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 49.45 (30r) of the statutes is created to read:

3 49.45 (30r) SERVICES IN A MENTAL HEALTH INSTITUTE. A county shall provide the
4 portion of payment that is not provided by the federal government for services under
5 s. 49.46 (2) (b) 6. e. in a mental health institute under s. 51.05.

SECTION 2. 49.46 (2) (b) 6. e. of the statutes is amended to read:

49.46 (2) (b) 6. e. Inpatient Subject to the limitation under s. 49.45 (30r),
inpatient hospital, skilled nursing facility and intermediate care facility services for
patients of any institution for mental diseases who are under 21 years of age, are
under 22 years of age and who were receiving these services immediately prior to
reaching age 21, or are 65 years of age or older.

SECTION 3. 51.15 (2) (c) of the statutes is amended to read:

51.15 (2) (c) A state treatment facility, if the county department of community programs in the individual's county of residence approves the individual's detention in the state treatment facility; or

SECTION 4. 51.42 (3) (as) 2m. of the statutes is amended to read:

~~51.42 (3) (as) 2m. The department of health services may bill the county department of community programs under subd. 2. for inpatient services provided on or after October 1, 1987, by a mental health institute for individuals under 21 years of age or for individuals under 22 years of age who are receiving the services immediately prior to reaching age 21, only if the person lacks full means of payment, including payment from sources other than medical assistance and other sources.~~

(END)

WS
2x18

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1571/p2ins
CMH:.....

1 Insert 2-18

2 **SECTION ~~1~~** 51.22 (1) of the statutes is amended to read:

3 51.22 (1) Except as provided in s. 51.20 (13) (a) 4. or 5., any person committed
4 under this chapter shall be committed to the county department under s. 51.42 or
5 51.437 serving the person's county of residence, and such county department shall
6 authorize placement of the person in an appropriate facility for care, custody and
7 treatment according to s. 51.42 (3) (as) 1. 1r. or 51.437 (4rm) (a).

8 History: 1975 c. 430; 1977 c. 428; 1983 a. 27 s. 2202 (20); 1983 a. 474; 1985 a. 176; 1989 a. 31; 2001 a. 16; 2005 a. 387, 444.

8 **SECTION ~~2~~** 51.22 (2) of the statutes is amended to read:

9 51.22 (2) Except for admissions that do not involve the department or a county
10 department under s. 51.42 or 51.437 or a contract between a treatment facility and
11 the department or a county department, admissions under ss. 51.10, 51.13, and 51.45
12 (10) shall be through the county department under s. 51.42 or 51.437 serving the
13 person's county of residence, or through the department if the person to be admitted
14 is a nonresident of this state. Admissions through a county department under s.
15 51.42 or 51.437 shall be made in accordance with s. 51.42 (3) (as) 1. 1r. or 51.437 (4rm)
16 (a). Admissions through the department shall be made in accordance with sub. (3).

17 History: 1975 c. 430; 1977 c. 428; 1983 a. 27 s. 2202 (20); 1983 a. 474; 1985 a. 176; 1989 a. 31; 2001 a. 16; 2005 a. 387, 444.

17 **SECTION ~~3~~** 51.42 (3) (as) 1. of the statutes is renumbered 51.42 (3) (as) 1r. and
18 amended to read:

19 51.42 (3) (as) 1r. A county department of community programs shall authorize
20 all care of any patient in a state, local, or private facility under a contractual
21 agreement between the county department of community programs and the facility,
22 unless the county department of community programs governs the facility. The need
23 for inpatient care shall be determined by the program director or designee in

1 consultation with and upon the recommendation of a licensed physician trained in
2 psychiatry and employed by the county department of ~~community programs~~ or its
3 contract agency. In cases of emergency, a facility under contract with any county
4 department of ~~community programs~~ shall charge the county department of
5 ~~community programs~~ having jurisdiction in the county where the patient is found.
6 The county department of ~~community programs~~ shall reimburse the facility for the
7 actual cost of all authorized care and services less applicable collections under s.
8 46.036, unless the department of health services determines that a charge is
9 administratively infeasible, or unless the department of health services, after
10 individual review, determines that the charge is not attributable to the cost of basic
11 care and services. Except as provided in subd. 1m., a county department of
12 ~~community programs~~ may not reimburse any state institution or receive credit for
13 collections for care received in a state institution by nonresidents of this state,
14 interstate compact clients, transfers under s. 51.35 (3), transfers from Wisconsin
15 state prisons under s. 51.37 (5) (a), commitments under s. 975.01, 1977 stats., or s.
16 975.02, 1977 stats., or s. 971.14, 971.17 or 975.06 or admissions under s. 975.17, 1977
17 stats., or children placed in the guardianship of the department of children and
18 families under s. 48.427 or 48.43 or under the supervision of the department of
19 corrections under s. 938.183 or 938.355. The exclusionary provisions of s. 46.03 (18)
20 do not apply to direct and indirect costs that are attributable to care and treatment
21 of the client.

History: 1971 c. 125; 1973 c. 90, 198, 333, 336; 1975 c. 39, 198, 199, 224, 422; 1975 c. 428 s. 16; 1975 c. 430 ss. 24 to 31, 80; 1977 c. 26 ss. 37, 38, 75; 1977 c. 29 ss. 612 to 623p, 1656 (18); 1977 c. 193; 1977 c. 203 s. 106; 1977 c. 272; 1977 c. 354 s. 101; 1977 c. 418, 428, 447; 1979 c. 34, 117, 177, 221, 330, 355; 1981 c. 20 ss. 923 to 942, 2202 (20) (d), (n), (q); 1981 c. 93 ss. 105 to 122, 186; 1981 c. 329; 1983 a. 27 ss. 1106 to 1112, 2202 (20); 1983 a. 189 ss. 44, 329 (5); 1983 a. 192, 239, 365, 375, 524; 1985 a. 29, 120, 176; 1987 a. 3, 27, 199, 339, 366; 1989 a. 31, 122; 1991 a. 39, 274, 315; 1993 a. 16, 437, 445; 1995 a. 27 ss. 3260 to 3262, 9126 (19), 9145 (1); 1995 a. 64, 77, 92, 201, 224, 276, 352, 417; 1997 a. 27, 164, 237, 268; 1999 a. 9; 2001 a. 10, 16, 38; 2003 a. 320; 2005 a. 264, 388, 431, 434; 2007 a. 20 ss. 1819m to 1821, 9121 (6) (a); 2007 a. 45, 97.

SECTION 4-51.42 (3) (as) 1g. of the statutes is created to read:

1 51.42 (3) (as) 1g. In this paragraph, "county department" means county
2 department of community programs.

3 ~~SECTION 5.~~ 51.42 (3) (as) 1m. of the statutes is amended to read:

4 51.42 (3) (as) 1m. A county department of ~~community programs~~ shall
5 reimburse a mental health institute at the institute's daily rate for custody of any
6 person who is ordered by a court located in that county to be examined at the mental
7 health institute under s. 971.14 (2) for all days that the person remains in custody
8 at the mental health institute, beginning 48 hours, not including Saturdays,
9 Sundays, and legal holidays, after the sheriff and county department receive notice
10 under s. 971.14 (2) (d) that the examination has been completed.

History: 1971 c. 125; 1973 c. 90, 198, 333, 336; 1975 c. 39, 198, 199, 224, 422; 1975 c. 428 s. 16; 1975 c. 430 ss. 24 to 31, 80; 1977 c. 26 ss. 37, 38, 75; 1977 c. 29 ss. 612 to 623p, 1656 (18); 1977 c. 193; 1977 c. 203 s. 106; 1977 c. 272; 1977 c. 354 s. 101; 1977 c. 418, 428, 447; 1979 c. 34, 117, 177, 221, 330, 355; 1981 c. 20 ss. 923 to 942, 2202 (20) (d), (n), (q); 1981 c. 93 ss. 105 to 122, 186; 1981 c. 329; 1983 a. 27 ss. 1106 to 1112, 2202 (20); 1983 a. 189 ss. 44, 329 (5); 1983 a. 192, 239, 365, 375, 524; 1985 a. 29, 120, 176; 1987 a. 3, 27, 199, 339, 366; 1989 a. 31, 122; 1991 a. 39, 274, 315; 1993 a. 16, 437, 445; 1995 a. 27 ss. 3260 to 3262, 9126 (19), 9145 (1); 1995 a. 64, 77, 92, 201, 224, 276, 352, 417; 1997 a. 27, 164, 237, 268; 1999 a. 9; 2001 a. 10, 16, 38; 2003 a. 320; 2005 a. 264, 388, 431, 434; 2007 a. 20 ss. 1819m to 1821, 9121 (6) (a); 2007 a. 45, 97.

11 ~~SECTION 6.~~ 51.42 (3) (as) 2. of the statutes is amended to read:

12 51.42 (3) (as) 2. If a mental health institute has provided a county department
13 of ~~community programs~~ with service, the department of health services shall
14 regularly bill collect for the cost of care from the county department of community
15 programs, except as provided under subd. 2m. If collections for care from the county
16 department and from other sources exceed current billings, the difference shall be
17 remitted to the county department of ~~community programs~~ through the
18 appropriation under s. 20.435 (2) (gk). For care provided on and after February 1,
19 1979, the department of health services shall adjust collections from medical
20 assistance to compensate for differences between specific rate scales for care charged
21 to the county department of ~~community programs~~ and the average daily medical
22 assistance reimbursement rate. ~~Payment shall be due from the county department~~
23 ~~of community programs within 60 days of the billing date subject to provisions of the~~

1 ~~contract. If any payment has not been received within 60 days, the~~ The department
2 of health services shall deduct ~~all or part of the amount due from a county~~
3 department under this subdivision from any payment due from the department of
4 health services to the county department of ~~community programs~~.

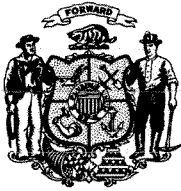
History: 1971 c. 125; 1973 c. 90, 198, 333, 336; 1975 c. 39, 198, 199, 224, 422; 1975 c. 428 s. 16; 1975 c. 430 ss. 24 to 31, 80; 1977 c. 26 ss. 37, 38, 75; 1977 c. 29 ss. 612 to 623p, 1656 (18); 1977 c. 193; 1977 c. 203 s. 106; 1977 c. 272; 1977 c. 354 s. 101; 1977 c. 418, 428, 447; 1979 c. 34, 117, 177, 221, 330, 355; 1981 c. 20 ss. 923 to 942, 2202 (20) (d), (n), (q); 1981 c. 93 ss. 105 to 122, 186; 1981 c. 329; 1983 a. 27 ss. 1106 to 1112, 2202 (20); 1983 a. 189 ss. 44, 329 (5); 1983 a. 192, 239, 365, 375, 524; 1985 a. 29, 120, 176; 1987 a. 3, 27, 199, 339, 366; 1989 a. 31, 122; 1991 a. 39, 274, 315; 1993 a. 16, 437, 445; 1995 a. 27 ss. 3260 to 3262, 9126 (19), 9145 (1); 1995 a. 64, 77, 92, 201, 224, 276, 352, 417; 1997 a. 27, 164, 237, 268; 1999 a. 9; 2001 a. 10, 16, 38; 2003 a. 320; 2005 a. 264, 388, 431, 434; 2007 a. 20 ss. 1819m to 1821, 9121 (6) (a); 2007 a. 45, 97.

5 ~~SECTION 7~~ 51.42 (3) (as) 2m. of the statutes is repealed.

6 ~~SECTION 8~~ 51.42 (3) (as) 3. of the statutes is amended to read:

7 51.42 (3) (as) 3. Care, services and supplies provided after December 31, 1973,
8 to any person who, on December 31, 1973, was in or under the supervision of a
9 mental health institute, or was receiving mental health services in a facility
10 authorized by s. 51.08 or 51.09, but was not admitted to a mental health institute by
11 the department of health services, shall be charged to the county department of
12 ~~community programs~~ which was responsible for such care and services at the place
13 where the patient resided when admitted to the institution. The department of
14 health services may bill county departments of ~~community programs~~ for care
15 provided at the mental health institutes at rates which the department of health
16 services sets on a flexible basis, except that this flexible rate structure shall cover the
17 cost of operations of the mental health institutes.

History: 1971 c. 125; 1973 c. 90, 198, 333, 336; 1975 c. 39, 198, 199, 224, 422; 1975 c. 428 s. 16; 1975 c. 430 ss. 24 to 31, 80; 1977 c. 26 ss. 37, 38, 75; 1977 c. 29 ss. 612 to 623p, 1656 (18); 1977 c. 193; 1977 c. 203 s. 106; 1977 c. 272; 1977 c. 354 s. 101; 1977 c. 418, 428, 447; 1979 c. 34, 117, 177, 221, 330, 355; 1981 c. 20 ss. 923 to 942, 2202 (20) (d), (n), (q); 1981 c. 93 ss. 105 to 122, 186; 1981 c. 329; 1983 a. 27 ss. 1106 to 1112, 2202 (20); 1983 a. 189 ss. 44, 329 (5); 1983 a. 192, 239, 365, 375, 524; 1985 a. 29, 120, 176; 1987 a. 3, 27, 199, 339, 366; 1989 a. 31, 122; 1991 a. 39, 274, 315; 1993 a. 16, 437, 445; 1995 a. 27 ss. 3260 to 3262, 9126 (19), 9145 (1); 1995 a. 64, 77, 92, 201, 224, 276, 352, 417; 1997 a. 27, 164, 237, 268; 1999 a. 9; 2001 a. 10, 16, 38; 2003 a. 320; 2005 a. 264, 388, 431, 434; 2007 a. 20 ss. 1819m to 1821, 9121 (6) (a); 2007 a. 45, 97.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1571/P2
CMH:wlj:md

DOA:.....Jablonsky, BB0438 - Mental health institutes funding
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

Under current law, if a person under the age of 22 or a person over the age of 64 is civilly committed in a state mental health institute, DHS pays the portion not paid by the federal government of the costs of the services the state mental health institute provides. Under this bill, the county must pay the portion not paid by the federal government.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 49.45 (30r) of the statutes is created to read:

3 **49.45 (30r)** SERVICES IN A MENTAL HEALTH INSTITUTE. A county shall provide the
4 portion of payment that is not provided by the federal government for services under
5 s. 49.46 (2) (b) 6. e. in a mental health institute under s. 51.05.

1 **SECTION 2.** 49.46 (2) (b) 6. e. of the statutes is amended to read:

2 49.46 (2) (b) 6. e. ~~Inpatient~~ Subject to the limitation under s. 49.45 (30r),
3 inpatient hospital, skilled nursing facility and intermediate care facility services for
4 patients of any institution for mental diseases who are under 21 years of age, are
5 under 22 years of age and who were receiving these services immediately prior to
6 reaching age 21, or are 65 years of age or older.

7 **SECTION 3.** 51.15 (2) (c) of the statutes is amended to read:

8 51.15 (2) (c) A state treatment facility, if the county department of community
9 programs in the individual's county of residence approves the individual's detention
10 in the state treatment facility; or

11 **SECTION 4.** 51.22 (1) of the statutes is amended to read:

12 51.22 (1) Except as provided in s. 51.20 (13) (a) 4. or 5., any person committed
13 under this chapter shall be committed to the county department under s. 51.42 or
14 51.437 serving the person's county of residence, and such county department shall
15 authorize placement of the person in an appropriate facility for care, custody and
16 treatment according to s. 51.42 (3) (as) ~~1.~~ 1r. or 51.437 (4rm) (a).

17 **SECTION 5.** 51.22 (2) of the statutes is amended to read:

18 51.22 (2) Except for admissions that do not involve the department or a county
19 department under s. 51.42 or 51.437 or a contract between a treatment facility and
20 the department or a county department, admissions under ss. 51.10, 51.13, and 51.45
21 (10) shall be through the county department under s. 51.42 or 51.437 serving the
22 person's county of residence, or through the department if the person to be admitted
23 is a nonresident of this state. Admissions through a county department under s.
24 51.42 or 51.437 shall be made in accordance with s. 51.42 (3) (as) ~~1.~~ 1r. or 51.437 (4rm)
25 (a). Admissions through the department shall be made in accordance with sub. (3).

1 **SECTION 6.** 51.42 (3) (as) 1. of the statutes is renumbered 51.42 (3) (as) 1r. and
2 amended to read:

3 51.42 (3) (as) 1r. A county department of ~~community programs~~ shall authorize
4 all care of any patient in a state, local, or private facility under a contractual
5 agreement between the county department of ~~community programs~~ and the facility,
6 unless the county department of ~~community programs~~ governs the facility. The need
7 for inpatient care shall be determined by the program director or designee in
8 consultation with and upon the recommendation of a licensed physician trained in
9 psychiatry and employed by the county department of ~~community programs~~ or its
10 contract agency. In cases of emergency, a facility under contract with any county
11 department of ~~community programs~~ shall charge the county department of
12 ~~community programs~~ having jurisdiction in the county where the patient is found.
13 The county department of ~~community programs~~ shall reimburse the facility for the
14 actual cost of all authorized care and services less applicable collections under s.
15 46.036, unless the department of health services determines that a charge is
16 administratively infeasible, or unless the department of health services, after
17 individual review, determines that the charge is not attributable to the cost of basic
18 care and services. Except as provided in subd. 1m., a county department of
19 ~~community programs~~ may not reimburse any state institution or receive credit for
20 collections for care received in a state institution by nonresidents of this state,
21 interstate compact clients, transfers under s. 51.35 (3), transfers from Wisconsin
22 state prisons under s. 51.37 (5) (a), commitments under s. 975.01, 1977 stats., or s.
23 975.02, 1977 stats., or s. 971.14, 971.17 or 975.06 or admissions under s. 975.17, 1977
24 stats., or children placed in the guardianship of the department of children and
25 families under s. 48.427 or 48.43 or under the supervision of the department of

1 corrections under s. 938.183 or 938.355. The exclusionary provisions of s. 46.03 (18)
2 do not apply to direct and indirect costs that are attributable to care and treatment
3 of the client.

4 **SECTION 7.** 51.42 (3) (as) 1g. of the statutes is created to read:

5 51.42 (3) (as) 1g. In this paragraph, "county department" means county
6 department of community programs.

7 **SECTION 8.** 51.42 (3) (as) 1m. of the statutes is amended to read:

8 51.42 (3) (as) 1m. A county department ~~of community programs~~ shall
9 reimburse a mental health institute at the institute's daily rate for custody of any
10 person who is ordered by a court located in that county to be examined at the mental
11 health institute under s. 971.14 (2) for all days that the person remains in custody
12 at the mental health institute, beginning 48 hours, not including Saturdays,
13 Sundays, and legal holidays, after the sheriff and county department receive notice
14 under s. 971.14 (2) (d) that the examination has been completed.

15 **SECTION 9.** 51.42 (3) (as) 2. of the statutes is amended to read:

16 51.42 (3) (as) 2. If a mental health institute has provided a county department
17 ~~of community programs~~ with service, the department of health services shall
18 regularly bill collect for the cost of care from the county department ~~of community~~
19 ~~programs, except as provided under subd. 2m.~~ If collections for care from the county
20 department and from other sources exceed current billings, the difference shall be
21 remitted to the county department ~~of community programs~~ through the
22 appropriation under s. 20.435 (2) (gk). For care provided on and after February 1,
23 1979, the department of health services shall adjust collections from medical
24 assistance to compensate for differences between specific rate scales for care charged
25 to the county department ~~of community programs~~ and the average daily medical

1 assistance reimbursement rate. ~~Payment shall be due from the county department~~
2 ~~of community programs within 60 days of the billing date subject to provisions of the~~
3 ~~contract. If any payment has not been received within 60 days, the~~ The department
4 of health services shall deduct ~~all or part of the amount due from a county~~
5 department under this subdivision from any payment due from the department of
6 health services to the county department of community programs.

7 **SECTION 10.** 51.42 (3) (as) 2m. of the statutes is repealed.

8 **SECTION 11.** 51.42 (3) (as) 3. of the statutes is amended to read:

9 51.42 (3) (as) 3. Care, services and supplies provided after December 31, 1973,
10 to any person who, on December 31, 1973, was in or under the supervision of a
11 mental health institute, or was receiving mental health services in a facility
12 authorized by s. 51.08 or 51.09, but was not admitted to a mental health institute by
13 the department of health services, shall be charged to the county department of
14 ~~community programs~~ which was responsible for such care and services at the place
15 where the patient resided when admitted to the institution. The department of
16 health services may bill county departments of ~~community programs~~ for care
17 provided at the mental health institutes at rates which the department of health
18 services sets on a flexible basis, except that this flexible rate structure shall cover the
19 cost of operations of the mental health institutes.

20 (END)